

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>3/2/10</u>

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YOLANDA JOSEY,

Plaintiff,

-against-

SALLIE MAE, INC., UNITED STATES
DEPARTMENT OF EDUCATION,

Defendants.
-----X

09 Civ. 4403 (SHS)

ORDER

SIDNEY H. STEIN, U.S. District Judge.

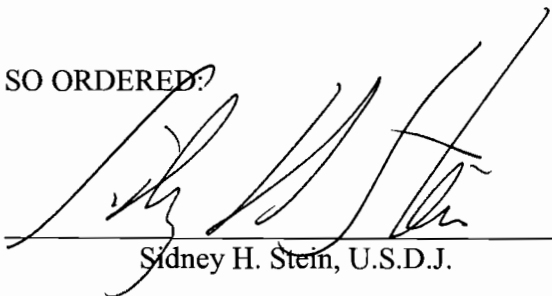
On August 17, 2009, Magistrate Judge Peck recommended dismissal of the complaint in this action against all defendants. (Report and Recommendation [Dkt. # 20].) In an Order dated September 15, 2009, this Court adopted Judge Peck's Report and Recommendation. (Order dated Sept. 15, 2009 [Dkt. # 21].) The entry of judgment followed on September 16, 2009 and the case was closed. (Clerk's Judgment [Dkt. # 22].) On February 18, 2010, plaintiff filed a motion in this action seeking what amounts to reconsideration of the Order dismissing her complaint. (See Motion [Dkt. # 23].) Specifically, plaintiff seeks to "reargue a single prior creditable claim for a Court order seeking declaratory judgment as to whether or not, (1) the original promissory note upon which the defendants assert enforcement exist[s], (2) proof of ownership (3) or was properly executed as a matter of law." (Affirmation of Yolanda Josey in Support Motion, at ¶ 4.) On February 25, 2010, the Government wrote a letter to this Court opposing the motion.

Under Local Rule 6.3, "a notice of motion for reconsideration or reargument of a court order determining a motion shall be served within fourteen (14) days after the entry of the court's determination of the original motion, or in the case of a court order resulting in a judgment,

within fourteen (14) days after the entry of judgment.” L. Civ. R. 6.3. Here, plaintiff filed this motion more than six months after Judge Peck issued the report and more than five months after the entry of judgment against her. Because plaintiff did not timely object to the report issued by Magistrate Judge Peck, she has waived any further judicial review of the report. *See Frank v. Johnson*, 968 F.2d 298, 300 (2d Cir. 1992) (“[F]ailure to object timely to a report waives any further judicial review of the report.”). In addition, plaintiff has not demonstrated good cause to extend the time to file objections to Judge Peck’s report. Accordingly, plaintiff’s motion is denied.

Dated: New York, New York
March 2, 2010

SO ORDERED:

A handwritten signature in black ink, appearing to read 'S. H. Stein', is written over a horizontal line. The signature is stylized with a large 'S' and 'H'.

Sidney H. Stein, U.S.D.J.